United Nations S/2004/877

Security Council

Distr.: General
1 November 2004

Original: English

Letter dated 28 October 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 21 November 2003 (S/2003/1128). The Counter-Terrorism Committee has received the attached fourth report from Lebanon submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. Denisov
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 14 October 2004 from the Permanent Mission of Lebanon to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: Arabic]

The Permanent Mission of Lebanon to the United Nations presents its compliments to the Counter-Terrorism Committee and, with reference to letter No. S/AC.40/2003/MS/OC.349 of the Committee, dated 12 November 2003, has the honour to submit herewith, pursuant to paragraph 6 of resolution 1373 (2001), the fourth report of Lebanon on counter-terrorism.

The Permanent Mission of Lebanon to the United Nations takes this opportunity to renew to the Counter-Terrorism Committee the assurances of its highest consideration.

Enclosure*

[Original: Arabic]

The Lebanese Republic
Ministry of Foreign Affairs and Emigrants

Effectiveness in the protection of the financial system

Question No. 1.1

Effective implementation of subparagraph 1 (a) of the resolution requires States to have in place efficient executive machinery for preventing and suppressing the financing of terrorist acts. In this context, the CTC would appreciate learning whether the Special Investigation Commission has sufficient resources (human, financial and technical) to carry out its mandate. Please provide appropriate data in support of your response. The CTC would be pleased to receive a description of the structure, staffing and powers of the Commission.

Response

For 2003, the budget of the Special Investigation Commission of the Banque du Liban amounted to 2,889,700,000 Lebanese pounds, equivalent to approximately US$ 1.9 million. For 2004, that same budget amounted to 3,252,800,000 Lebanese pounds, equivalent to approximately US$ 2.1 million.

The Commission has a staff of 35 employees, mainly specialists with first-class university degrees who have the expertise required to audit bank accounts and monitor the procedures applied by banks, financial institutions, bureaux de change and gold businesses, inter alia, in order to combat money-laundering operations and the financing of terrorism.

The Commission also has at its disposal modern technologies for communicating directly with all concerned domestic bodies and departments (customs, police, the judiciary ...) and all foreign financial intelligence units with a view to exchanging information on suspicious transactions.

As for its structure and powers, under article 6 of the Combating of Money-laundering Act No. 318/2000, an independent commission known as the Special Investigation Commission has been established at the Banque du Liban. It has a judicial character and a juridical personality and pursues its activities without being subject to the authority of the latter. Its function is to investigate money-laundering operations and monitor compliance with the rules and procedures provided for in the above Act.

The Special Investigation Commission is composed of:

- The Governor of the Banque du Liban as member and, if he is unable to attend, such member of the Commission as he may delegate;
- The chairman of the Banking Control Commission as member and, if he is unable to attend, such member of the Commission as he may delegate;

* Annexes are on file with the Secretariat and are available for consultation.

– The judge appointed to the Higher Banking Commission as member and, if he is unable to attend, an alternate judge appointed by the Supreme Judicial Council for a term equivalent to that of the full member;

– A full member and an alternate member appointed by the Council of Ministers at the proposal of the Governor of the Banque du Liban.

The function of the Special Investigation Commission is to investigate operations suspected of constituting money-laundering offences and determine the seriousness of the evidence for the commission of any such offence.

The Commission has the exclusive right to determine that banking secrecy should be lifted for the benefit of the competent judicial authorities and the Higher Banking Commission, in the person of its chairman, in cases where it is suspected that accounts opened at banks or financial institutions are being used for the purpose of money-laundering.

The Commission meets at the invitation of its chairman at least twice a month and as necessary. Its meetings are legal only if attended by a minimum of three members.

The Commission adopts its decisions by a majority of those present and, if votes are equal, the chairman has the casting vote.

The Commission appointed a full-time secretary, who implements its decisions and directly supervises the secretariat staff, consisting of 35 employees divided among four units, as follows:

– **The Audit and Investigation Unit:** Its tasks include those of gathering evidence on operations that may constitute money-laundering offences, checking information received by the Commission and reporting investigation findings to the Commission through its secretary;

– **The Financial Investigation Administrative Unit:** Its tasks include those of receiving and gathering information from various sources on suspected money-laundering operations, entering and archiving such information using approved programmes, analysing and comparing it with information already available and exchanging information with all concerned bodies and departments, both domestic and foreign;

– **The Compliance Unit:** Its tasks include the ongoing periodic investigation and auditing of banks, financial institutions and all concerned establishments, as mandated by the Commission, to ensure that, within their respective spheres of competence, they perform the obligations stipulated in the Combating of Money-laundering Act and such implementing regulations as may be issued in that connection by the Banque du Liban or the Commission;

– **The Information Technology and Security Unit:** Its tasks include those of installing and updating computer programmes, securing and maintaining computer equipment and preparing, maintaining and developing programmes for the work of the Units, the databank and security and monitoring equipment.

Question No. 1.2

Effective implementation of subparagraphs 1 (a) and (d) requires States to have in place legal provisions to prevent informal money/value transfer systems from being used for the purpose of the financing of terrorism. The CTC notes from page 5 of the supplementary report that Lebanon has no such provisions. In this regard, could Lebanon indicate the steps it intends to take in order to comply fully with this aspect of the resolution?

Response

Reference has already been made to this subject; we stated that informal money/value transfer systems in Lebanon, such as *hawalah*, for instance, are non-existent and that money transfer operations are governed by the laws and regulations in force in Lebanon. Such operations may be effected only through banks and financial institutions having obtained prior authorization from the Banque du Liban, which has the discretionary power to grant or deny such authorization depending on whether it deems it to be in the public interest.

The Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, issued by the Banque du Liban pursuant to Decision No. 7818 of 18 May 2001, as amended, contain provisions pursuant to which banks and concerned financial institutions are required to verify the identity of the beneficiary of incoming or outgoing transfers. These institutions are under obligation to report any suspicious transfers without delay to the Special Investigation Commission, which, after auditing the bank accounts to or from which the transfers are made, may decide, as appropriate, to lift banking secrecy from the accounts in question, place an immediate freeze on the account balances and notify both local and foreign authorities accordingly.

Question No. 1.3

With regard to the effective implementation of subparagraph 1 (d) of the resolution, the CTC would be grateful to know whether Lebanon has taken judicial action against non-profit organizations for suspected involvement in the financing of terrorism? If yes, could Lebanon outline the relevant procedures and provide information concerning the outcome of such action? The CTC would also welcome examples of cases in which sanctions were imposed against those organizations. Are there procedures in place to respond to requests from other Governments to investigate particular organizations which are suspected of being linked to terrorism?

Response

(a) In 2003, at the request of national or foreign judicial authorities or of foreign police, the Office of the Public Prosecutor at the Court of Cassation instructed the security agencies which perform judicial enforcement functions to investigate a number of cases involving funds suspected of being linked to non-profit organizations (such as religious, charitable or cultural organizations) serving as a cover for the financing of terrorist acts and activities. The aim was to reveal the soundness and accuracy of those suspicions and learn whether the organizations were straying from their original stated objectives into terrorist acts and activities.

The requesting authorities have been informed of the negative outcome of the investigations.

Moreover, through the Counter-Terrorism Office and at the request of the offices of the International Criminal Police Organization (Interpol), the competent local agencies gathered information on whether certain religious, social and political associations are engaged in activities on Lebanese territory that are suspected of being used as a cover for unlawful acts. The information, which turned out to be negative, was forwarded to the requesting Interpol offices.

(b) The judicial authorities in Lebanon have brought no legal prosecutions against non-profit associations or organizations suspected of financing terrorist activities, as the investigations carried out ultimately failed to confirm the accuracy of such suspicions about any of these associations or organizations. An example which can be cited, however, is the prosecution of persons for the offence of complicity in terrorist activities in that they financed the group which, in 2003, bombed restaurants in Lebanon with United States names; elements of the group were arrested and tried by the competent military court, which sentenced two Lebanese persons holding Australian passports to 15 years' imprisonment, it having been proved to the court that they had aided and abetted in the commission of those terrorist acts.

(c) For its part, the Banque du Liban informed us that it had received no reports of any suspicious non-profit organizations and had therefore taken no action against any such organization.

(d) As for procedures in place to respond to requests from foreign Governments, the procedures stipulated in the Combating of Money-laundering Act and in the regulations issued by the Banque du Liban and the Special Investigation Commission are applied.

Question No. 1.4

Effective implementation of subparagraph 1 (a) of the resolution requires financial institutions and other intermediaries to identify their clients and report suspicious financial transactions to the relevant authorities. With reference to pages 4 and 5 of the third report of Lebanon, it is not clear whether its legal provisions require the reporting of suspicious transactions to all professionals engaged in financial transactions (such as lawyers and/or accountants)? The CTC would appreciate an outlining of the steps Lebanon intends to take in order to comply fully with this aspect of the resolution. In this regard, would Lebanon please provide the CTC with the number of suspicious transactions reports (STRs) received by the Special Investigation Commission and/or other competent authorities, with particular regard to STRs from bureaux de change, money remittance/transfer services and jewellery businesses. Please also indicate the number of STRs analysed and disseminated as well as the number of these which have led to investigations, prosecutions or convictions.

Response

Pursuant to article 7 of the Combating of Money-laundering Act No. 318 of 20 April 2001, all institutions, whether or not subject to banking secrecy, are required to report immediately to the Special Investigation Commission the details

of any transactions suspected of concealing money-laundering, including transactions relating to terrorist activities or the financing of terrorism.

Article 4 of the Act lists some of the many examples of institutions which are not subject to banking secrecy and which are required to report suspicious transactions. Although this article makes no direct reference to lawyers and accountants, they are under the same reporting obligation as those who fall within the scope of the laws and regulations governing their respective areas of work.

Under article 5 (f) of Act No. 318/2000 and article 13 (2) of the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, the financial monitoring officer at the bank or financial institution is required to report immediately to the Governor of the Banque du Liban, in his capacity as chairman of the Special Investigation Commission, any violation of the provisions of the Act or the Regulations.

Thus far, the Special Investigation Commission has received nine reports from bureaux de change, one report from the gold business sector and, excluding banks and financial institutions, no reports from remittance institutions (Western Union). All these reports, however, are unrelated to transactions suspected of being linked to terrorism or the financing of terrorism; they related solely to forged or bounced cheques and led to no prosecutions and consequently to no judicial rulings.

Question No. 1.5

In the context of the effective implementation of paragraph 1 of the resolution, has Lebanon adopted measures to prevent terrorists and other criminals from having unfettered access to wire transfers for moving their funds, with regard to:

- monitoring of the compliance of financial institutions with rules and regulations governing wire transfers (cross-border and domestic);
- detecting such misuse when it occurs, in particular by ensuring that basic information on the originator of wire transfers is immediately available to relevant authorities?

Response

Pursuant to article 10 et seq. of the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, issued by the Banque du Liban by Decision No. 7818 of 18 May 2001, as amended, all banks and financial institutions operating in Lebanon are required to establish specialized administrative committees and units to monitor financial and banking operations in order to combat money-laundering, including operations involving proceeds derived from or aimed at financing terrorism. Some of their many tasks are identified and, within their respective areas of competence, these committees and units, as well as all concerned officers at the bank or financial institution, are required to follow the procedures set forth for monitoring and combating money-laundering operations in order to pre-empt their occurrence.

Banks and financial institutions therefore each have a specialized committee which is entrusted with a number of tasks, including the review of reports referred to it by the Verification Unit and the Internal Auditing Unit concerning suspicious

transactions and high-risk accounts in regard to deposits, cash withdrawals and transfers and their linkage with economic activities.

The tasks of the Verification Unit include the review of the daily and weekly cash transaction and transfer reports received from the directorates and branches concerned, as well as the combined monitoring of client accounts and transactions.

The Internal Auditing Unit performs the tasks of auditing cash transactions, transfers and account movements and periodically reporting any changes to the approved monitoring officer.

The tasks of the officer in charge of monitoring branch accounts include the monitoring of cash transactions and transfers and the reporting of any suspicious transactions to the Verification Unit.

As for the officer in charge of the Transfers Division, his tasks include those of auditing incoming transfers to customer accounts, particularly electronic transfers which do not include the name of the person ordering the transfer and which are over a certain amount and unusual in character, and reporting to the Verification Unit any transfers thought to involve suspicious transactions.

Specific tasks are also assigned to cashiers, officers in charge of the Cheques Division and branch managers.

A special unit, known as the Compliance Unit, was also established as part of the Special Investigation Commission. Its tasks are, inter alia, to ascertain and check on an ongoing periodic basis the performance by banks, financial institutions and all concerned establishments of their respective obligations under the Combating of Money-laundering Act No. 318/2001 and such regulations as may be issued in that regard by the Banque du Liban or directly by the Commission. It also makes recommendations to the Commission, through its secretary, on ways of bringing internal auditing methods to the attention of all sectors, in particular the agricultural, industrial, commercial and service sectors, with a view to combating any potential money-laundering through any one of them.

We also wish to point out that, under the Combating of Money-laundering Act and the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, all concerned institutions are required immediately to report to the Special Investigation Commission any suspicious transactions, including transfers thought to conceal suspicious transactions, in particular transfers about which there are doubts concerning the identity of the beneficiary and so on.

Effectiveness of counter-terrorism machinery

Question No. 1.6

Effective implementation of 1373-related legislation covering all aspects of the resolution requires States to have in place effective and coordinated executive machinery, as well as create and utilize adequate national and international anti-terrorist strategies. In this context, does Lebanese counter-terrorist strategy and/or policy targeting, at the national and/or subnational levels, deal with the following forms or aspects of counter-terrorist activity:

- criminal investigation and prosecution;

- counter-terrorist intelligence (human and technical);
- special forces operations;
- physical protection of potential terrorist targets;
- strategic analysis and forecasting of emerging threats;
- analyses of efficiency of anti-terrorist legislation and relevant amendments;
- border and immigration control;
- control preventing the trafficking in drugs, arms, biological and chemical weapons, their precursors and the illicit use of radioactive materials.

Without compromising any sensitive information, could Lebanon please outline its legal provisions, administrative procedures and best practices in this regard?

Response

A. *Criminal investigation and prosecution*

The Lebanese judiciary and its assistant security agencies are constantly on the alert to uncover and pre-empt any terrorist activity by arresting the would-be perpetrators and taking the appropriate measures stipulated in Lebanese laws against those who perpetrate, aid, abet or act as accomplices in such activity, as in the case of the action taken against the defendants in the attack on the network of United States restaurants.

B *Counter-terrorist intelligence (human and technical)*

The human and technical resources in all security agencies are on permanent alert to monitor and track any terrorist activity.

C. *Special forces operations*

All security agencies have special counter-terrorism forces which, in most areas of Lebanon, have carried out raids and arrested terrorist elements and entities who were handed over to the competent judicial authority.

D. *Physical protection*

By a decision of the Central Security Council, which is headed by the Minister of the Interior and Municipalities, security was stepped up in order to protect all places that are a potential target for attack, such as Government offices, vital centres and foreign embassies, agencies and establishments.

E. *Strategic analysis and forecasting of emerging threats*

The security agencies have experts at their disposal who analyse security information, prepare assessment reports and propose measures to prevent terrorist plans from being carried out.

F. *Analyses of efficiency of anti-terrorist legislation and relevant amendments*

The Lebanese Penal Code comprises articles identifying precisely the criminal acts which are included within the meaning of terrorism. These acts are punishable with stringent penalties that are commensurate with the gravity of the act, the role of those involved and the ensuing consequences. Such penalties range from temporary hard labour to the death sentence.

Currently under consideration is a draft amendment to these articles that will widen the scope of such acts and provide for harsher penalties in accordance with the evolution of the new global concept of terrorism and the directives of the United Nations pursuant to resolution 1371 (2001).

G. *Border and immigration control*

In addition to the internal laws governing the entry and exit process in Lebanon, the Lebanese State has concluded several international agreements to limit illegal immigration, including but not limited to:

- An agreement between Lebanon and Romania on illegal immigration and the readmission of illegal residents;
- An agreement between Lebanon and Bulgaria on the readmission of illegal residents;
- An agreement between Lebanon and the People's Republic of China on traffic in persons and illegal immigration.

The Directorate-General for Public Security is responsible for strengthening border monitoring and control, prosecuting persons who violate Lebanon's rules on entry and residence, pursuing networks involved in the traffic of persons, arresting the members of such networks and bringing them before the competent authorities.

H. *Control preventing traffic in drugs, arms, biological and chemical weapons, their precursors and the illicit use of radioactive materials*

Article 3.I, paragraphs 3 and 4, of the Arab Convention for the Suppression of Terrorism, signed in Cairo on 22 April 1998, which the Lebanese Government was authorized to conclude pursuant to Act No. 75 of 31 March 1999, provides that the Contracting States shall endeavour:

> "To develop and strengthen systems for the detection of the movement, importation, exportation, stockpiling and use of weapons, munitions and explosives and of other means of aggression, murder and destruction as well as procedures for monitoring their passage through customs and across borders in order to prevent their transfer from one Contracting State to another or to third-party States other than for lawful purposes;
>
> "To develop and strengthen systems concerned with surveillance procedures and the securing of borders and points of entry overland and by air in order to prevent illicit entry thereby".

Item IV, section I (Implementing programmes), paragraphs 21 and 22, of the plan for the third implementation phase of the Arab counter-terrorism strategy, which runs for a three-year period, beginning on 16 January 2004 and ending on 15 January 2007, also urges the member States of the Council of Arab Ministers of

the Interior to form response teams to cope with the potential disruption to medical centres, hospitals and security agencies caused by the use of biological and chemical weapons by terrorist entities and with the injuries and psychological repercussions produced by these dangerous weapons. It further urges those States to train security personnel and devote more attention to the monitoring and prevention of biological and chemical terrorism.

Articles 56 to 75 of the Narcotics, Psychotropic Substances and Precursors Act No. 673 of 16 March 1998 contain special provisions on importation, exportation and transit in connection with the international trade in the plants, substances and preparations included under the Act, as well as provisions applicable to commercial carriage operations and postal shipments.

Question No. 1.7

The CTC would be grateful if Lebanon could provide it with information regarding its counter-terrorist efforts including, for example, an outline of any targeted programmes, the agencies involved and any mechanism aimed at ensuring inter-agency coordination in the various areas specified in paragraphs 2 and 3 of the resolution. The CTC is particularly interested in the following areas:

- the recruitment to terrorist groups;
- the tracing of links between criminal activity (in particular, drug trafficking) and terrorism;
- the denial of safe havens to terrorists and of any other forms of passive or active support for terrorists or terrorist groups, including, inter alia, logistical support.

Response

A. *Recruitment to terrorist groups*

The intelligence networks to which the security agencies have access are engaged in tracing, pursuing and monitoring all terrorist elements. As a result, terrorists have been arrested and handed over to the competent judicial authority, and terrorist cells have been destroyed and prevented from recruiting new elements.

B. *Links between criminal activity (in particular drug trafficking) and terrorism*

The Lebanese security agencies set about destroying all prohibited crops and raiding drug-manufacturing centres. Through such raids, they were able to arrest several members of networks involved in the smuggling and manufacture of drugs. The investigations conducted, however, showed no link between drug-smuggling networks and terrorist organizations.

C. *Denial of safe havens to terrorists and of any other forms of support, including logistical support*

The intelligence surveillance of all territory by the security agencies led to raids on sites and places providing shelter to terrorists and the arrest of elements from terrorist groups, who were handed over to the competent judicial authority.

The Palestinian camps, however, offer a potential refuge for extremist elements, including even those who are under close investigative and intelligence surveillance.

Question No. 1.8

In the context of the effective implementation of subparagraph 2 (e), could Lebanon please inform the CTC as to the number of persons prosecuted for:

- terrorist activities;
- the financing of terrorist activities;
- recruitment to terrorist groups;
- providing or inviting support to terrorists or terrorist organizations.

Response

We are awaiting the reply of the Minister of Justice, which we shall transmit as soon as we receive it.

Question No. 1.9

With regard to effective implementation of subparagraphs 1 (a), 2 (e) and 3 (a) of the resolution, the CTC would be grateful for an outline of Lebanese legal procedures and administrative mechanisms in place to ensure adequate cooperation and information-sharing among the different Government agencies which may be involved in the investigation of terrorist activities, particularly the financing of terrorism. Do the legal provisions in place authorize the administrative authorities to share both public and non-public information concerning counter-terrorism with their domestic and foreign counterparts? If yes, please outline.

Response

Internally, there is a mechanism for cooperation among the various judicial authorities and the competent administrative authorities that is governed by the laws and regulations on security departments and forces. This cooperation takes place among the Directorate-General for Public Security, the Directorate for Internal Security Forces, the Directorate for Lebanese Army Intelligence and the Customs Administration. The Office of the Public Prosecutor at the Court of Cassation has the central power as a judicial enforcer and through its supervision of all offices of the public prosecutor and of the security forces operating under its authority.

The Combating of Money-laundering Act also provides the opportunity for cooperation between the Special Investigation Commission and the Office of the Public Prosecutor at the Court of Cassation in freezing accounts containing proceeds derived from terrorist activities and offences involving drugs and traffic in weapons, after banking secrecy has been lifted; the Office of the Public Prosecutor is notified to conduct the necessary investigations with a view to bringing the offenders to trial and thus seeking the confiscation of proceeds derived from terrorist activities and other offences stipulated in the Combating of Money-laundering Act.

In regard to the financing of terrorism at the internal level, information is exchanged in writing or electronically with the concerned organizations, departments and agencies (security, administrative, judicial and customs). An

electronic system has been set up for communication between the Commission and the relevant security and customs units, through which information is exchanged with the requisite speed. At 31 December 2003, the Commission had received seven local reports on persons linked with terrorism.

Externally, the Lebanese State is a member of Interpol, within the framework and regulations of which it provides other requesting States with such information as it may have on persons suspected of supporting or financing terrorist activities. Under supervision of the Office of the Public Prosecutor at the Court of Cassation, the competent security agencies conduct the investigations required to obtain such information in accordance with the provisions of the Code of Criminal Procedure.

The Lebanese Government is committed to the full implementation of the 10 international conventions and protocols to which it has thus far acceded and which now have the force of law.

The Government is also bound by the Arab Convention for the Suppression of Terrorism, to which it acceded pursuant to Act No. 99/57 and which makes detailed provision for cooperation among the Contracting States in order to prevent and combat terrorist offences through the exchange of information, expertise and evidence, as well as through investigations, judicial assistance and judicial cooperation.

Under supervision of the Office of the Public Prosecutor at the Court of Cassation, the competent security and judicial authorities engage in such cooperation within the context of the provisions of the above-mentioned international conventions and protocols, as well as in accordance with Lebanon's internal laws.

In accordance with Act No. 318/2001, the Special Investigation Commission of the Banque du Liban receives reports from institutions subject to banking secrecy, from institutions not subject to banking secrecy, from various foreign financial intelligence units and from official authorities, both Lebanese and non-Lebanese. These reports are either submitted in writing or electronically, particularly since the Commission is a member of the Egmont Group, comprising 69 foreign financial intelligence units which are electronically linked.

In regard to the written or electronic exchange of information with the competent foreign authorities, at 13 December 2003, the Commission had received 172 reports from foreign sources, including 57 relating to names and persons connected with terrorism.

It is worth mentioning that inquiries were made at banks and financial institutions operating in Lebanon about accounts belonging to the persons concerned and that no such accounts were found to exist, with the exception of one account held by one of those persons and containing approximately US$ 2. Banking secrecy was lifted from the account, which was frozen. The concerned parties were notified accordingly.

The Ministry of Foreign Affairs and Emigrants is responsible for coordination and the exchange of information with all security authorities and competent investigation commissions. It also transmits the required information to the competent foreign bodies in Beirut or to a mission of Lebanon abroad and from there to the competent authorities abroad.

Question No. 1.10

Regarding the implementation of subparagraphs 1 (a) and (d) of the resolution, as well as article 5 of the International Convention for the Suppression of the Financing of Terrorism, could Lebanon please provide the CTC with statistics on the number of cases in which sanctions, whether criminal, civil or administrative, were imposed on entities and/or organizations for supporting terrorists or terrorist organizations? Please outline the procedures used to proscribe foreign terrorist organizations (other than those featuring in lists drawn up by the Security Council of the United Nations), as well as data in regard to the number of such organizations and/or the relevant examples. How long does it take to proscribe a terrorist organization at the request of or based on the information of another State? In this regard, please indicate how many persons have been prosecuted for inviting and/or providing support for:

- **proscribed organizations; and**
- **other terrorist groups or organizations?**

Response

A. *Sanctions imposed on entities and/or organizations for supporting terrorists*

Through the competent security agencies and at the request of foreign authorities or the United Nations, the Office of the Public Prosecutor at the Court of Cassation has carried out investigations on the strength of information received about activities of entities and organizations suspected of supporting terrorist activities. It took no legal action in these cases, however, either because it had no proof that such information was genuine and reliable or because these entities and organizations support terrorist activities as construed under Lebanese law. Consequently, no criminal, administrative or other sanctions have been imposed on any entity or organization.

B. *Procedures used to proscribe foreign terrorist organizations featuring in the list drawn up by the United Nations or otherwise*

Since the formation of illegal and clandestine organizations constitutes an offence punishable under the Lebanese Penal Code, the recruitment of members, the collection of funds or the solicitation of other forms of support for terrorist acts and terrorist activities in and outside Lebanon each constitute an offence. Such acts constitute either incitement to or complicity in the offence of forming an illegal (or clandestine) organization. On that basis, it can be said that the current Lebanese legislative enactments are legislative measures that fulfil the purpose of combating terrorism, particularly in association with international conventions guaranteeing coordination in that regard.

As for practical measures, under the supervision of the competent judicial authority, specifically the Office of the Public Prosecutor at the Court of Cassation, the different types of security agency coordinate with Interpol in mobilizing all of their resources in order to exchange information or data. They also conduct investigations and inquiries concerning persons suspected of engaging in underhand or bogus activities, such as recruitment under the guise of teaching or the collection of funds through organizations which may be a front for terrorist activities. The

security agencies consequently report the findings of such investigations to the competent authorities in the requesting States and take the necessary action in regard to the suspects in the event that there is sufficient evidence and the legal elements required to incriminate them.

The time needed to detect and arrest the elements of a terrorist group at the request of another State cannot, however, be specified, as it depends on the facts and ramifications of each case and the potential difficulties faced by the competent authorities.

C. *Number of persons prosecuted*

As for the number of persons prosecuted for belonging to proscribed groups or other terrorist organizations, we also enclose the list containing the names of persons prosecuted for the offence of belonging to terrorist organizations or of having perpetrated terrorist acts, which was transmitted to Interpol and the United Nations at their request (see appendix 1).

Question No. 1.11

With regard to the effective implementation of subparagraph 3 (g) of the resolution please indicate whether Lebanon applies the "prosecute or extradite" (*aut dedere aut judicare*) principle of international law. In other words, in the event of Lebanon refusing to extradite a person based on the application of a provision of Lebanese law, does Lebanon proceed to prosecute that person for the offence or offences for which that person's extradition was originally sought? Are claims of political motivation grounds for refusing extradition in the case of terrorist acts? The CTC would appreciate receiving a report on the steps which Lebanon has taken or intends to take in order to fully comply with this aspect of the resolution.

Response

I. The provisions of article 23 of the Penal Code, which relate to the principle that Lebanese law is universally applicable, stipulate as follows:

> "Lebanese law shall apply to any foreigner present on Lebanese territory who, as a principal, instigator or accessory, set about the commission of an offence abroad that is not provided for under articles 19, 20 and 21, if his extradition has not been requested or accepted."

On the basis of the provisions of this article and in the event that Lebanon refuses to extradite a person, such person is prosecuted by the Lebanese judiciary for the misdemeanour or felony which is the subject of the request for extradition.

These provisions are consistent with the principle of "prosecute or extradite" set forth in resolution 1373 (2001).

II. Where there is a bilateral or multilateral international legal agreement governing the extradition of persons having perpetrated terrorist offences, the provisions of such agreement are applied.

Where there are no such international agreements, the provisions of the Lebanese Penal Code are applicable. Article 34 of the Code provides that extradition shall be refused if the request for extradition arises out of a political crime or if it appears to be for a political purpose. This provision applies regardless

of the type and nature of the offence which is the subject of the extradition request, without excluding terrorist offences.

Question 1.12

The CTC notes from page 9 of the third report of Lebanon that Lebanon is currently considering amending the Penal Code of 1943 and will take into account all matters relating to the combating of terrorism. The CTC would be pleased to be infcrmed of the outcomes of this process. Could Lebanon please provide the CTC with progress report on:

- the implementation in domestic law of the international instruments relating to terrorism which Lebanon has ratified with particular regard to the penalties prescribed for offences created as required under the conventions and protocols;
- the ratification by Lebanon of the remaining conventions or protocols among the 12 international Conventions and Protocols relating to terrorism referred to in the resolution to which Lebanon has yet to become a party.

Response

(a) At the current time, a committee composed of assistant magistrates and senior judges is drafting amendments to the Lebanese Penal Code. The committee includes the Public Prosecutor at the Court of Cassation. This draft will notably incorporate legal provisions on penalties for the offences stipulated in the international conventions and protocols to which Lebanon has acceded and which have been duly ratified by the Chamber of Deputies, the aim being to ensure consistency with the provisions of those conventions.

(b) As for ratification of the international conventions and protocols on terrorism which Lebanon has not yet ratified, this is a matter for the legislature.

Question No. 1.13

Could Lebanon please provide the CTC with the progress report of adoption and promulgation by the Chamber of Deputies of the draft Law No. 318 of 20 April 2001, as well as of the amendment of Article 315 of the Lebanese Penal Code? Please also outline the relevant provisions of those which criminalize financing of terrorism.

Response

In view of the growing concern over money-laundering, the Group of 7 meeting, held in Paris in 1989, decided to establish the Financial Action Task Force on Money Laundering (FATF). In April 1990, FATF published a report comprising 40 Recommendations constituting a full plan of action to combat money-laundering. In February 2000, on the basis of those Recommendations, FATF published a report specifying 25 criteria for identifying the rules and practices which obstruct international cooperation to combat money-laundering. On the basis of those criteria, FATF analysed the anti-money-laundering systems in a number of countries. In June 2000, 15 States, *including Lebanon*, were told that they had been added to the list of non-cooperative countries in the fight against money-laundering. In FATF's view, Lebanon's stringent banking secrecy regime impedes access to the

information needed by the administrative authorities and the bodies charged with the conduct of investigations. Lebanon's cooperation at the international level was deemed by FATF to be unsatisfactory.

In the face of this situation and with the aim of preserving its reputation as a regional financial centre, Lebanon promulgated the Combating of Money-laundering Act No. 318 of 20 April 2004 (leaving the Banking Secrecy Act intact).

In accordance with that Act, the Banque du Liban also issued Decision No. 7818 of 18 May 2001 regulating the monitoring of financial and banking transactions to combat money-laundering.

Article 1 of Act No. 318 defines what is meant by illicit proceeds from the commission of certain offences and what is considered to be money-laundering, including money derived from the terrorism offences stipulated in articles 314, 315 and 316 of the Lebanese Penal Code.

Pursuant to Act No. 547 of 30 October 2003, article 1 of Act No. 318/2001 was amended by the addition of a provision relating to the financing or contribution to the financing of terrorism or terrorist acts or organizations in accordance with the meaning of terrorism stipulated in the Lebanese Penal Code.

Act No. 318/2001 imposes penalties of up to seven years' imprisonment and pecuniary fines on any person who undertakes, aids or abets money-laundering operations. An independent commission named the Special Investigation Commission, which has a judicial character and a juridical personality, was established at the Banque du Liban. Its activities are not subject to the authority of the latter and its function is to investigate operations suspected of constituting money-laundering offences, determine the seriousness of the evidence for any such offence and monitor compliance with the rules and procedures stipulated in the Combating of Money-laundering Act. The Commission has the exclusive authority to lift banking secrecy from any suspicious account or accounts, including credit accounts opened at banks or financial institutions, for the benefit of the competent judicial authorities. It is also the Commission which decides that accounts should be temporarily or permanently frozen and its decisions are not subject to any means of ordinary, extraordinary, administrative or judicial review, including a review for transgression of authority.

It should be noted that the Combating of Money-laundering Act stipulates a penalty of up to one year's imprisonment and a pecuniary fine for all institutions, whether or not subject to banking secrecy, which fail to perform their obligations to check the identity and addresses of their clients and ascertain their fulfilment of the obligations incumbent on them under the Act. It also stipulates that movable and immovable assets shall be forfeited to the State where it is demonstrated by a final judgement that they are connected with money-laundering offences. Under the Act, the Commission is also permitted to exchange information with the concerned domestic and foreign authorities.

It should be mentioned that the Combating of Money-laundering Act protects the chairman, members, employees and delegates of the Commission by granting them immunity within the scope of their work insofar as none of them can be sued or prosecuted for any civil or criminal liability in connection with the performance of his or her duties, including offences provided for under the Banking Secrecy Act. It also protects banks and their employees by granting them immunity when

performing the duties incumbent on them under that Act or in accordance with the decisions of the Commission.

As a result of the efforts of the various concerned Lebanese organizations and departments, in June 2002, FATF *removed Lebanon from the list of non-cooperative countries in the fight against money-laundering*. During October 2003, FATF set about ending the monitoring period for Lebanon in that regard.

In regard to the amendment of article 315 of the Lebanese Penal Code, it was substituted pursuant to Act No. 553 of 20 October 2003 by the addition of a provision to the Code, namely that of article 316 *bis*, the text of which is as follows:

"Under this Code, illicit assets shall be construed to mean all assets derived from the commission of any of the following offences:

1. The cultivation, manufacture or traffic of drugs;

2. Acts by members of a conspiracy provided for in articles 335 and 336 of the Penal Code and regarded as internationally organized crime;

3. The terrorist offences provided for in articles 314, 315 and 316 of the Penal Code;

4. The financing or contribution to the financing of terrorism, terrorist acts or terrorist organizations in accordance with the meaning of terrorism as provided for in the Lebanese Penal Code;

5. Illicit traffic in weapons;

6. The theft or embezzlement of public or private funds or the seizure of such funds by deception, falsification or abuse of a position of trust in banks and in the financial and other institutions listed in article 4 of this Code or in areas within the scope of their activity;

7. The counterfeiting of currency, credit cards, charge cards, public securities or commercial bonds, including cheques."

Question No. 1.14

The CTC would be grateful to be informed of the legal or other measures which enable the Lebanese authorities to provide assistance in the matter of criminal investigation and judicial proceedings as required under subparagraph 2 (f) of the resolution. Is there a law in Lebanon which provides for mutual assistance in criminal investigations and judicial proceedings? Could Lebanon outline its mutual legal assistance provisions in general and with particular regard to requests for the freezing, seizure and confiscation of property or valuables?

Response

Requests from abroad for investigations through the judicial police or for judicial assistance through the judiciary are acted upon either in accordance with the provisions of the relevant judicial agreement, where one exists, or in accordance with the principle of reciprocity and international cooperation in the event that there is no judicial agreement governing the matter. Such action is subject to the legal rules governing the procedure. Requests for the seizure and confiscation of movable or immovable property or assets are subject to the provisions of the international

judicial agreement, where one exists, failing which they are subject to the provisions of international law.

Question No. 1.15

The CTC notes from the reply to questions No 1.7 and 1.9 (at pages 7 and 8 of the third report) that Lebanon has no legal provisions in place to enable prosecution of a foreign national who is in Lebanon and has committed a terrorist act outside Lebanon against a State other than Lebanon or against that State's citizens. In this regard could Lebanon indicate the steps it intends taking in order fully to comply with those aspects of the resolution?

Response

Under the provisions of article 23 of the Penal Code, the Lebanese judiciary may prosecute a foreigner on Lebanese territory who set about committing a terrorist act abroad against a foreign State or its citizens, provided that the act in question constitutes a "terrorist" act in accordance with the definition previously specified in Lebanon's first report, which was transmitted to the United Nations on 13 December 2001.

Effectiveness of customs, immigration and border control

Question No. 1.16

Implementation of paragraphs 1 and 2 of the resolution requires the operation of effective customs and border controls with a view to preventing and suppressing the financing of terrorist activities. Does Lebanon impose controls on the cross-border movement of cash, negotiable instruments and/or precious stones and metals by imposing, for example, an obligation to declare assets or to obtain prior authorization before any movement of these takes place? Please provide information concerning relevant monetary or financial thresholds. Could Lebanon provide the CTC with a common legal framework for preventing gold, diamonds and other high value items from being utilized by terrorists?

Response

The response will be provided in the report to be submitted by Lebanon before October 2004 in accordance with Security Council resolution 1540 (2004) on preventing access to weapons of mass destruction by non-State actors.

Question No. 1.17

As stated in Lebanon's third report (at page 8), Lebanese law does not specifically prohibit commerce in official travel documents or identification documents. Are there plans to introduce adequate prohibitions? With regard to Lebanon's reference in page 8 of its third report to "precise and stringent measures" which "the Directorate-General for Public Security of the Lebanese Ministry of the Interior has adopted to verify the forgery or sale of any documentation, in particular identity papers and travel documents", please outline Lebanese legal and administrative provisions regarding the issuance and use of national passports, particularly those which prevent:

- counterfeiting or alteration of a genuine passport by criminal and other elements who need a passport to establish a new identity or citizenship,
- obtaining a passport by deception, using falsified, stolen or genuine documents not one's own (identity theft),
- the theft and completion of a genuine blank passport document, and
- malfeasance of passport authority employees in the issuance of passports.

Response

A. *Commerce in official travel documents and identity papers, in particular the counterfeiting or alteration of a genuine passport by criminal and other elements who need a passport to establish a new identity or citizenship*

Article 453 of the Lebanese Penal Code punishes any deliberate distortion of facts or data of which there is documentary proof in the form of a deed or manuscript.

In accordance with the Lebanese Code of Civil Procedure, the concept of a document covers any written document intended to substantiate a right, an undertaking, an event or a status and includes passports inasmuch as they are used as proof of identity, nationality or the right of travel. Consequently, the alteration of any such document is an offence punishable under article 453 of the Penal Code.

In addition to punishing the counterfeiter, article 454 of the same Code provides for punishment of persons who knowingly use the counterfeiter, meaning that a third party who knowingly uses a forged passport is deemed to be an accomplice of the counterfeiter and is punishable by same penalty. It should be pointed out, however, that the Directorate-General for Public Security issued a new type of Lebanese passport in conformity with the standards of the International Civil Aviation Organization (ICAO), according to which the passport photograph and information must be printed electronically on a plastic cover by state-of-the-art machines, thus making it impossible to forge a passport or to affix a photograph which differs from that of the passport holder. No forgeries have yet occurred since the date when this type of passport first came into use.

B. *Obtaining a passport by deception, using falsified, stolen or genuine documents not one's own*

Article 462 of the Penal Code punishes any person who knowingly presents a forged or counterfeit document to a public department in order to obtain a Lebanese passport (affidavit of identity, affidavit of domicile or witness testimony). Where there is doubt as to the authenticity of such documents, the judicial and administrative files are consulted and the person proven to have presented the forged document is arrested and handed over to the competent judicial authority to be prosecuted for the offence of forgery.

C. *The theft and completion of a genuine blank passport document*

It is impossible for blank passports to be stolen; they are produced abroad, after which they are delivered to a special committee appointed to the task of checking and making a record of the number of passports and their serial numbers.

They are then stored at the Banque du Liban in a special safe and the requisite number is removed once a month, or as necessary, by the Directorate-General for Public Security (the Lebanese Passport Office, which is in turn responsible for keeping the passports safely under lock and key where they are inaccessible to anyone other than the competent authority responsible for their due issuance).

D. *Malfeasance of passport authority employees in the issuance of passports*

Under article 461 of the Penal Code, any public servant who is required to keep records and who falsifies such records must be punished. The Directorate-General for Public Security imposes a heavier penalty on employees who are proven to have committed acts prohibited by laws and directives and hands them over to the competent judicial authority for the appropriate criminal measures to be taken against them.

We should also mention that that between 19 and 28 May 2003, the ICAO auditing team audited the safety procedures in place at Beirut International Airport, checked their compliance with the international standards required under annex 17 and submitted a report on its task to ICAO.

Question No. 1.18

Effective implementation of subparagraphs 2 (c) and (g) of the resolution requires the operation of efficient customs, immigration and border controls to prevent the movement of terrorists and the establishment of safe havens. In this regard, please outline the legal and administrative procedures developed by Lebanon to protect port facilities, ships, persons, cargo, cargo transport units, off-shore installations and ship's stores from the risks of terrorist attacks. Have the competent Lebanese authorities put appropriate procedures in place to enable them to review and update Lebanese transport security plans as appropriate? If yes, please outline.

Response

We are still awaiting the reply from the competent authority.

Question 1.19

In the context of the implementation of subparagraphs 2 (b) and (j), has Lebanon implemented the ICAO standards and recommendations as described in annex 17? Could Lebanon inform the CTC when the ICAO safety audit of Lebanon's international airports has been completed?

Response

As already mentioned in the response to question No. 1.17, between 19 and 28 May 2003, the ICAO auditing team carried out a safety audit of the procedures in place at Beirut International Airport, checked their compliance with the international standards required under annex 17 and submitted a report on its task to ICAO. It also made various comments, to which the Directorate-General of Civil Aviation and the senior management of the Safety Department at Beirut International Airport responded in the form of a letter setting out the immediate action taken in respect of some of those comments and the action planned in regard

to the other comments (a copy of letter No. 8813/2 dated 22 December 2003 and of the attached comments is appended hereto — appendix 2).

Effectiveness of controls preventing access to weapons by terrorists

Question No. 1.20

Effective implementation of subparagraph 2 (a) of the resolution requires each Member State to have in place, inter alia, appropriate mechanisms to deny access to weapons to terrorists. Please outline the legal provisions which Lebanon has put in place to prevent terrorists from acquiring, by legal or illegal means, hazardous materials, such as radiological, chemical and biological materials, their waste products, as well as of nuclear, chemical and biological weapons. Has Lebanon established a national reporting or auditing procedure to detect the loss or theft of hazardous materials mentioned above, whether held by government or private bodies?

Response

The terms and conditions for the importation and manufacture of ordinary pharmaceutical preparations (under a scientific name) are subject to the provisions of a series of laws and decisions promulgated by the executive concerning intensive monitoring by the Ministry of Health, the Customs Administration and all security agencies in order to prevent the entry, circulation or manufacture of toxic or illegal chemical and biological substances.

There are no special procedures in place for detecting the theft or concealment of the above-mentioned hazardous materials. The security and customs authorities, however, take such action as is required to ensure that laws and decisions are implemented and that such unlawful acts are prevented.

Under the Weapons and Munitions Act No. 137 of 12 June 1959, as amended, it is prohibited to manufacture, trade in or circulate nuclear weapons. Compliance with the provisions of this Act is monitored by all security and customs authorities.

In addition, article 6 of the Offences against Internal State Security and Terrorism Act of 11 January 1958 provides that: "Any person who, with intent to perpetrate or facilitate the perpetration of any of the felonies mentioned in this Act or any other felony against the State, manufactures, procures or is in possession of explosive or incendiary materials, toxic or inflammable products or parts used in the assembly or manufacture thereof shall be punished with hard labour for life."

Question 1.21

Could Lebanon please outline its mechanism and procedures in place to legally prohibit and/or control the exportation of goods, the transfer of technologies, the provision of technical assistance overseas and activities connected with trade in controlled goods, with a view to preventing terrorists from gaining access to weapons or hazardous materials. The CTC would appreciate it if Lebanon could provide it with statistics on the use of legal provisions to prevent terrorists from gaining access to weapons.

Response

Please refer to the response to question No. 1.16, as the response to this question is the same.

Question No. 1.22

The CTC is aware that Lebanon may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Lebanon's response to these matters, as well as details of any efforts to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.

Response

A copy of the report transmitted in accordance with Security Council resolution 1455 (2003) to the Security Council Committee established pursuant to paragraph 6 of resolution 1267 (1999) is appended hereto (appendix 3).